



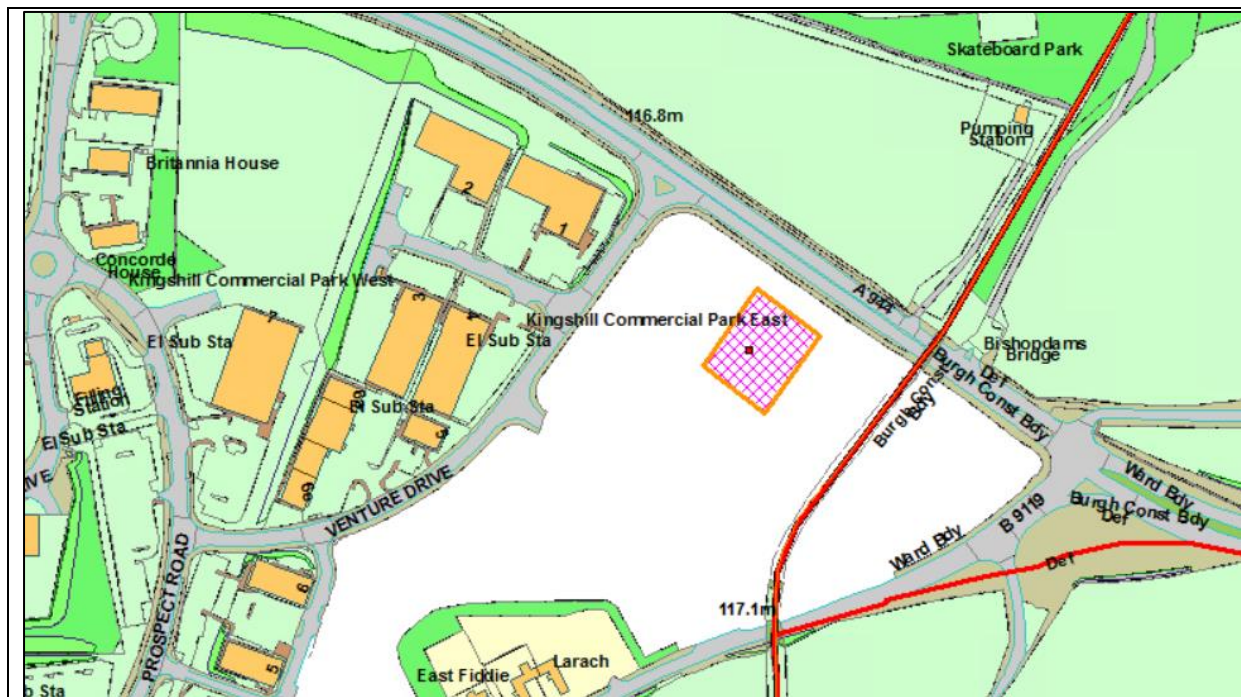
Garioch Area Committee Report – 13 December 2022

Reference No: **APP/2022/1236**

Full Planning Permission for Erection of Café/Bakery with Drive Through Facility with Associated Car Parking and Electric Vehicle Charging Points at Site B, Venture Way, Arnhall Business Park, Westhill, Aberdeenshire

Applicant: Davaar Property Group
Agent: McWilliam Lippe Architects

Grid Ref:	E:383932 N:806407
Ward No. and Name:	W13 – Westhill and District
Application Type:	Full Planning Permission
Representations:	0
Consultations:	8
Relevant Proposals Map Designations:	Aberdeen Housing Market Area, Westhill Settlement, OP2 – Arnhall Gateway
Complies with Development Plans:	No
Main Recommendation:	Grant



NOT TO SCALE

Reproduced from Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright and database rights. Ordnance Survey Licence Number 0100020767.

1. Reason for Report

- 1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1c of Part 2C Planning Delegations of the Scheme of Governance as the application for development is a departure from the Development Plan and is recommended for approval.
- 1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report] and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

- 2.1 Full Planning Permission is sought for the erection of a café/bakery with drive through facility, associated car parking and electric vehicle charging points at Site B, Venture Way, Westhill.
- 2.2 The existing site is an area of undeveloped land situated between two existing drive through restaurant/café facilities within the settlement boundary of Westhill. The site is bound to the northeast by the public road (A944) and to the southwest by the public road, Venture Way which provides access to the site. To the northwest and southeast the site is bound by the existing drive through facilities. The application site also forms part of the northeast corner of the Aberdeenshire Local Development Plan 2017 OP2 – ‘Arnhall Gateway’. The OP2 site is a triangular site of 4.4ha and is designated as employment land which is defined as Use Class 4, 5 and 6.
- 2.3 It is noted that the site is no longer allocated as OP2 within the Proposed Aberdeen Local Development Plan 2020, but is instead designated as BUS (safeguarded for business use). Effectively this allocation is identical to that of OP2 as the intended business uses are Use Classes 4, 5 and 6.
- 2.4 The application site is set back approximately 20m southwest of Jubilee Drive (A944) pedestrian footpath. The site has been largely cleared of vegetation and levelled. The wider Arnhall site is predominantly developed, and offices occupy the north western side of Venture Drive. Parts of Kingshill Park to the southwest of the site are also industrial buildings and office accommodation. In the last four years however, two existing drive through cafes/restaurants of a similar nature to this proposal have been granted planning permission as departures from the Local Development Plan.
- 2.5 It is proposed to erect a single storey café/bakery with a drive through facility, associated car parking and electric vehicle charging points. The total area of the application site is approximately 0.2ha. The development will occupy the current gap situated between the two existing café/restaurants and drive through facilities.
- 2.6 The café/bakery building will be located towards the northern corner of the site, approximately 25m southwest of Jubilee Drive. It will have a total footprint area of approximately 220m². The building will have a mono-pitched roof with a maximum ridge height of approximately 5.2m. The building will also feature a lower mono-pitched roof section on the northeast, northwest

and southwest elevations, which has a ridge height of approximately 3.5m. The building will be finished with horizontal blue and anthracite grey metal panels. The roof will be finished with metal roof cladding and the windows anthracite grey with aluminium frames. The building will have partially glazed walls on the southwest and southeast elevations but is otherwise entirely covered by the horizontal cladding. An outdoor seating area is proposed at the centre of the site adjacent to the southwest elevation of the building. The customer entrance will be located on the southeast elevation. The premises propose to serve a range of coffees, teas, and various hot drinks along with sandwiches, cakes, and pastries. The drive through facility allows products to be purchased and consumed within vehicles on or off the site. It is anticipated that 20 full-time and part-time jobs will be created.

- 2.7 Car parking will be located to the southwest of the building, with a total of 21 spaces being provided. 12 electric vehicle charging spaces are also provided to the southeast of the building but these are not considered as part of the total parking provision. The one-way drive through system will encircle the café/bakery building, providing access and egress from and to the existing public road Venture Way to the southwest.
- 2.8 The proposed boundary treatment for the site is post and wire fencing. Proposed landscaping is shown in the form of a continuous row of beech hedging at the northwest and northeast boundaries. Trees (birch and rowan) will also be planted at regular intervals along the northeast and southeast boundaries.
- 2.9 The development will connect to the existing public water supply and foul sewer network. Surface water runoff will be managed via new surface water drains from the internal site. Roads and car parking bays will discharge to cellular storage units and drain direct to the new surface water drainage network.
- 2.10 The proposed opening time for customers is between 06:00-21:00, Monday to Sunday. There is no designated loading bay for the site, however deliveries will take place outwith opening hours, prior to 04:00.
- 2.11 Relevant Planning history (application site and wider area)

APP/2022/1237 – Advertisement consent for the erection of signage (tandem application for current site). Approved 16 August 2022.

APP/2018/2800 – Full Planning Permission for the Erection of Single Storey Restaurant with Drive-thru, Play Area and Associated Works (Sui Generis). Approved 6 September 2019 following GAC (McDonalds).

APP/2018/2869 - Erection of Cafe with Drive Thru Lane, Car Parking and Associated Works. Approved 20 May 2019 following GAC (Starbucks).

APP/2017/2868 – Non-Compliance with Condition 1 (Time) of Planning Permission in Principle Reference APP/2014/1356 Variation of Conditions on Planning Permission Reference APP/2006/2551: Condition 1: Extend Time Limit for Submission of Matters Specified and Condition 12: Adjust Floorspace in Accordance with Revised Transport Assessment

APP/2014/1356 - Variation of Conditions on Planning Permission Reference: APP/2006/2551: Condition 1: Extend Time Limit for Submission of Matters Specified and Condition 14: Adjust Floorspace in Accordance with Revised Transport Assessment – Approved 17/11/2014 (extension of time only)

APP/2013/2276 – Full Planning Permission for Formation of Infrastructure including Roads and Drainage – Approved 20/09/2013

APP/2006/2551 – Outline Planning Permission for Business and Industrial Development (Phase 3) – Approved 11/09/2012

2.12 Supporting Information

Drainage Assessment Report by Fairhust (May 2022)

Provides detail of the proposed drainage arrangements including existing drainage, foul drainage, surface water drainage and construction phase SUDS.

Planning Supporting Statement by Lippe Architects and Planners (June 2022)

Provides an overview and background to the proposal. Planning policies relating to the application and material considerations are also discussed.

Supporting Statement by Savills on behalf of Davaar Property Group and Lippe Architects and Planners (June 2022)

The report provides an overview of the commercial property market around Aberdeen, with an emphasis on Westhill.

Retail Health Assessment by Savills (June 2022)

The report assesses the overall health of the current retail and leisure uses operating within Westhill Town Centre.

Service and Delivery Plan by Fairhurst (September 2022)

Outlines the delivery and servicing procedures for the site, including opening hours and times of delivery.

2.13 Variations and Amendments

September 2022 – Updated site plan to address requirements of Roads Development in relation to the drive-through layout, waiting bay, parking spaces and road markings. Also shows required landscape detail.

3. **Representations**

3.1 No valid letters of representation have been received.

4. **Consultations**

4.1 **Environment and Infrastructure Services (Contaminated Land)** advised the proposal does not appear to raise any issues of concern in respect of contaminated land.

4.2 **Environment and Infrastructure Services (Environmental Health)** do not object to the proposal, subject to conditions.

- 4.3 **Environment and Infrastructure Services (Flood Risk and Coast Protection)** do not object to the proposal.
- 4.4 **Environment and Infrastructure Services (Roads Development)** initially objected to the proposal as a loading bay had not been provided as per the requirements of the Aberdeenshire Council Car Parking Standards. Concerns were also raised about the layout of the one-way system. Roads Development has now advised it has no objection to the proposal following the submission of amended plans and confirmation that deliveries will take place outwith customer opening hours.
- 4.5 **Waste Management Services** has not responded at the time of writing.
- 4.6 **Health and Safety Executive** does not advise against the granting of planning permission.
- 4.7 **INEOS FPS** advised that the safety and engineering integrity of the INEOS FPS Forties Pipeline will not be affected by the proposed development, and therefore has no comments to make on the application.
- 4.8 **Scottish Water** does not object to the proposal and confirms that a connection to the public water supply and foul only drainage is available.
- 4.9 **Westhill & Elrick Community Council** made several comments on the application, relating to matters such as Westhill being perceived as a 'fast food drive-thru hub' in addition to concerns regarding the lack of a litter management plan, the scale of the site signage and pedestrian safety accessing the site. The number of EV charging points were noted as a welcome addition. The Community Council advised that these points are to be treated as comments only and not an objection to the proposal. Their comments are attached as **Appendix 1**.

5. Relevant Planning Policies

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and

socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.1.1 National Planning Framework 4 (NPF4)

The revised National Planning Framework 4 (NPF4) has now been published and on 8 November 2022 was laid before Parliament for approval. The revised NPF4 will be before the Scottish Parliament for six weeks.

NPF4 will form part of the statutory development plan on adoption and publication (assuming the commencement of the necessary provisions in the Planning Act). Until then, the Revised NPF4 is a material consideration in development management decision making, although with limited weight until such times as it is adopted.

5.2 Aberdeen City and Shire Strategic Development Plan 2020

The Strategic Development Plan (SDP) was approved on 12 August 2020.

The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Aberdeen City & Shire SDP 2020 as approved forms part of the Development Plan.

5.3 Aberdeenshire Local Development Plan 2017

Policy B1 Employment and business land
Policy B2 Town centres and office development
Policy P1: Layout, siting and design
Policy P4 Hazardous and potentially polluting developments and contaminated land
Policy C1 Using resources in buildings
Policy C4 Flooding
Policy RD1 Providing suitable services

5.4 Proposed Aberdeenshire Local Development Plan 2020

Aberdeenshire Council on 5 March 2020 resolved to agree the Proposed Aberdeenshire Local Development Plan (LDP) 2020 as the "settled view of the Council" on what the final adopted content of the LDP 2022 should be. The Proposed LDP 2020 is a material consideration in the determination of planning applications. The Planning Authority must therefore assess what

weight it should have in the context of this particular application. The Reporter's Report of Examination of the Proposed LDP 2020 has now been published (24 June 2022). Notwithstanding, there is currently no authority to use the Proposed Local Development plan as a substitute for the Local Development Plan 2017. The weight that can be given to the phrase "settled view of the Council" can only be interpreted in the context of the publication of the Proposed Local Development Plan 2020 (March 2020). Even with the certainty associated with the Reporter's Report it still remains only a material consideration in determining planning applications. However, consideration will be given on a case by case basis where the weight of the Reporter's Report should be given overwhelming significant weight when it is most advantageous to the applicant's proposals. SPP Paragraph 34 is of associated relevance.

The Scheme of Governance reserves determination of planning policy to Full Council for resolution. As such until the Proposed Local Development Plan 2020 has been formally adopted by Full Council (as LDP 2022) can this be considered as the Council's "settled view".

It should be borne in mind that the LDP has been written to be implemented as a whole and not the selective use of agreeable parts.

On the 18 April with reference to the legislation the LDP 2017 becomes technically 'out of date'. Notwithstanding the Aberdeenshire LDP 2017 remains the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted. Currently Scottish Planning Policy (SPP) deals with this circumstance at Paragraphs 32 to 34. The policies of the LDP 2017 are reflective of the policy position within SPP. Both SPP and the National Planning Framework 3 are confirmed as significant influences on the content of the plan, as confirmed within Section 2 – 'Influences of the Plan'. In summary, when a development plan is more than five years old the presumption in favour of sustainable development is a significant material consideration, this must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits. All of these matters however are already embedded within the policies of the Local Development Plan 2017 and deemed robust in their consideration.

5.5 Other Material Considerations

None.

6. Discussion

6.1 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. This must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits.

6.2 The key planning issues to be discussed in the determination of this application are the principle of the development, the layout, siting and design

of the proposal and consideration of technical matters such as access, servicing and drainage.

Principle of development

- 6.3 The application site is situated in Phase 3 of the Arnhall Business Park, within the OP2 allocation. Arnhall covers a large area to the southeast of the settlement of Westhill and is contained within the A944 between Westhill and Alford and the B9119 between Westhill and Echt. Arnhall is designated in the local development plan as a BUS site, safeguarded for employment use. Arnhall Business Park is predominantly occupied by businesses relating to the oil industry services and training. There are also a small number of other businesses relating to renewable energy, property, retail, hospitality, healthcare, finance and recruitment. The nearest part of Arnhall is characterised by modern business and commercial buildings, large warehouses and open yard storage. Prior to the approval of the two adjacent drive through café/restaurants in 2019, OP2 remained as an undeveloped site. The recent approvals have resulted in an area which is characterised by a mix of employment and non-employment uses. This proposal seeks to fill the gap site with a similar use.
- 6.4 The proposal is for a café/bakery with a drive through facility and takeaway service. The overall use would be considered as sui generis. The OP2 allocation in the Aberdeenshire Local Development Plan 2017 (and BUS in the Proposed LDP 2020) is specifically for employment uses that normally fall within Class 4, 5 & 6. As such, the proposal is contrary to the requirements of Policy B1 Employment and business land, which aims to ensure allocated land is developed for suitable employment purposes. The policy is explicit in stating that the 'non-employment uses' will not be supported sites allocated for employment use unless:
- 1) there is a constraint on the site whereby there is no reasonable prospect of it ever becoming marketable for employment development; OR
 - 2) the site is poorly located for employment uses and an alternative land use would benefit the surrounding area and community.
- In either of these cases, the applicant must also demonstrate that the non employment use:
- a) will not prejudice the strategic employment land requirement; AND
 - b) would be compatible with neighbouring employment uses; AND
 - c) will respect the character and amenity of the surrounding area and is landscaped accordingly.
- 6.5 In support of the criteria outlined above, the applicant has provided two Supporting Statements providing justification for this proposal and the lack of viability for the site as an employment use.
- 6.6 The Supporting Statement produced by Savills found that Arnhall Business Park and the wider Westhill area currently offer more than adequate supply for occupiers in terms of industrial and office uses, with supply levels likely to increase in the future. The market for office and industrial use within the surrounding area is characterised by significant oversupply which is unlikely to

change in the short to medium term. This is particularly evident in Westhill where much of the recently constructed commercial space remains vacant or is being leased/sublet at substantial discount from previously achieved headline rates. Considering the nature of the proposed development and the current supply of commercial buildings and development land in the Westhill area, the report is of the view that an additional drive through at Arnall Business Park would not have any detrimental impact on the overall supply of commercial land and may in fact enhance the attractiveness of the remaining space available in and around the Westhill area. The proposal will complement the existing and future business space, attracting additional investment to the area and creating additional employment.

- 6.7 The planning Supporting Statement provided by Lippe Architects and Planners makes similar arguments, noting that following the COVID-19 pandemic, the demand remains for uses other than employment to support businesses which are operating in the area. There has been limited sales of Class 4, 5 and 6 land over the last five years and commercial land value has dropped. In the view of the applicant, the sacrifice of some of the supply of Class 4, 5 and 6 development land should be seen as a necessary step towards enhancing Westhill and the local area. The proposal would appropriately complement the existing business uses and would form a welcome addition to the amenity mix which may encourage future occupiers to relocate to Arnhall Business Park or around Westhill. The applicant also highlights that the development would not have an adverse effect on the supply of employment land in Westhill. The case remains as with other similar proposals in the area which have been approved, that direct and indirect marketing of the site has taken place since 2006. Despite some interest in 2014, there has been no further interest in the land for employment purposes.
- 6.8 The Planning Service has considered the justification provided above and whilst it cannot be said with any certainty that there is no prospect of the site ever becoming marketable for employment purposes, it is clear that this prominent site has continually failed to attract sufficient interest. Considering the enduringly poor market performance of the site and the apparent oversupply of similar office accommodation in Aberdeenshire and Aberdeen City, it is not inconceivable that that the site may remain undeveloped for a significant period. In contrast, this proposal provides a complementary use that would benefit current and future employees in the vicinity, the wider community and passing trade. The proposal is a suitable addition to the area which is already characterised by existing uses immediately adjacent to each side of the site.
- 6.9 It cannot be claimed that the site is poorly located for employment use as it is highly accessible from the A944 between Aberdeen and Alford and adjacent to the established business park and relatively close to the residential areas of Westhill. However, the argument that the proposed development as an alternative land use, would benefit the surrounding area by virtue of stimulating growth in the stalled final phase of Arnhall is accepted. For the reasons above, the proposal is considered to partly meet the requirement of point 2) Policy B1 Employment and business land. In terms of points a) – c) of the policy there is no impact on the strategic employment land supply and the development would be compatible with neighbouring employment uses. Matters of character, amenity and landscaping will be dealt with separately.

- 6.10 Policy B2 Town centres and office development is also applicable in considering the principle as it states that retail and other uses which generate high footfall should be in town centres unless a sequential assessment shows another site is appropriate. Cafés, restaurants and takeaways with takeaway facilities are not explicitly mentioned in the policy, but it is considered that given the proposal offers both a sitting in and take away service, there is a customer focus, high footfall and a use that may be expected in the town centre.
- 6.11 The Savills report which accompanies the application states that currently 34 out of 35 units in Westhill Town Centre are occupied. The sole vacant unit is comparable in size to the proposed café/bakery, there is no ability to provide a drive through function. A town centre would also not have the desired purpose of catering for the needs of business users and employees at Arnhall Business Park. The site is located remotely from the existing town centre, however, the site is in very close proximity to employment and other uses throughout Arnhall Business Park. Having regard to the currently healthy occupancy rate within Westhill town centre it is not considered that there will be a detrimental impact on its current vitality and viability.
- 6.12 In terms of principle, due to the small-scale nature of this proposal the proposed development is not considered to be strategically or regionally significant, or require consideration of cross-boundary issues, and therefore does not have to be considered against the Strategic Development Plan. The Planning Service considers there to be suitable justification to support the proposal as a departure to the Local Development Plan in this case.

Layout, siting and design

- 6.13 The proposal would occupy a prominent site set back from the main A944 road between Aberdeen and Alford. The site forms part of the OP2 designation which has not been fully built out. OP2 is designated employment land and when combined with the existing developed parts of Arnhall which are in elevated positions to the northwest and southwest the proposed building will have sufficient backdrop when entering Westhill from the east. There is planning permission in principle for the whole OP2 site, the most recent of which being APP/2017/2868, requests strategic landscaping. As this is an application for full planning permission, the landscaping for the wider site OP2 site is outwith the scope of the application. However, the proposed site is located some 15m southwest of the A944 footpath and does not preclude strategic landscaping between the site and the footpath being formed.
- 6.14 The Planning Service requested a detailed landscaping scheme for the site to minimise any significant visual impacts and to ensure the development is in keeping with the character of the area. The proposed landscaping features beech hedging along the northwest and northeast boundaries, in addition to tree planting on the northeast and southeast elevations. The landscaping will not fully screen the development but will soften the overall appearance of the site. The proposal therefore complies with this aspect of policy P1.
- 6.15 Considering the scale and design of the proposed café/bakery drive-through, the appearance of the building would not significantly detract from the character of the area, as it is generally in keeping with the character of the

existing adjacent buildings to the site in terms of its mass, appearance and layout. The proposed finishes which include metal panel walls in blue and grey in addition to aluminium window frames would not detract from the character of the area. It is considered that the siting, layout and design, along with the proposed scheme of landscaping will result in an attractive development that complies with Policy P1: Layout, siting and design and Policy C1 Using resources in buildings.

Transportation and Roads

- 6.16 The proposal includes access and parking provision for vehicular and non-motorised transport. The footpaths into the site are a continuation of the footpath that runs parallel to the site's southern boundary, which will assist pedestrians and cycles to enter the site. The drive through element necessitates vehicle movements around the entire building with the drive through lane encircling the proposed building. A proposed crossing would connect the adjacent footpath to the building entrance and no conflict between pedestrians and slow moving vehicles is envisaged. Roads Development has confirmed that the 21 car parking spaces is acceptable. A further 12 spaces are provided with electric vehicle charging points and these spaces are not counted towards the overall provision. Amended plans have been submitted to deal with the initial concerns of Roads Development with respect to servicing and deliveries. Roads Development has confirmed it does not object to the proposal subject to standard conditions and informatives.

Technical matters

- 6.17 In support of the application, a Drainage Assessment and strategy have been submitted. The development will connect to the existing public water supply and foul sewer network. Surface water runoff will be managed via new surface water drains from the internal site. Roads and car parking bays will discharge to cellular storage units and drain direct to the new surface water drainage network. Flood Risk & Coast Protection has raised no objection to the proposal. The proposal is therefore considered to comply with Policy RD1 Providing suitable services.
- 6.18 With regard to waste management, an area for refuse is indicated to the southwest of the proposed building for the storage of three 1100 litre bins. A number of customer bins are proposed within the external seating area. At the time of writing, Waste Management has not responded. To be consistent with the approach taken at the two neighbouring sites a condition is recommended to secure details of a litter management policy and plan for the development. Environmental Health confirmed it did not object to the application, subject to the attachment of informatives relating to registration of the development as a food business and gull management to prevent gulls nesting or roosting on the proposed building. The proposal is therefore considered to comply with Policy RD1 Providing suitable services.
- 6.19 The application site lies within the consultation distance of a major hazard pipeline. The Health and Safety Executive (HSE) is a statutory consultee for certain developments within these consultation zones and this has been considered using the HSE planning advice web app. This concluded that HSE does not advise on safety grounds against the granting of planning permission in this case. In addition, the pipeline operator (INEOS FPS Ltd) advises that

the safety and engineering integrity of the INEOS FPS Forties Pipeline will not be affected by the proposed development. The proposal is therefore considered to meet the requirements of Policy P4 Hazardous and potentially polluting developments and contaminated land.

Conclusion

- 6.20 The policies contained in the Local Development Plan 2017 remain compliant with the principles of sustainable development as guided by the SPP and therefore provide an appropriate basis for the determination of this application.
- 6.21 The Planning Service accepts that in recent years, despite marketing, the site has failed to attract interest to develop the site for a suitable employment use. Developing the site for a sui generis café and drive through would result in a relatively modest loss of employment land. Providing a complementary function on site may help to draw in other employment development to the remaining phase of Arnhall Business Park. The siting and design are considered appropriate for this location and the site is accessible by local pedestrians, cyclists or those in vehicles. The proposed landscaping is sufficient for the site and further strategic landscaping will be provided along the A944 in due course.
- 6.22 It is also noted that this part of the Arnhall Business Park already hosts two similar drive throughs that operate successfully. Having regard to the material planning considerations and the planning history of the surrounding sites the proposal is recommended for approval as a departure to the Local Development Plan.
- 6.23 In assessing the proposed development against the wider policies of SPP and the LDP 2017 and any other material considerations, there were no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal.

7. Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

- 8.1 An integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.

- 8.4 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

9. Departures, Notifications and Referrals

9.1 Strategic Development Plan Departures

None

9.2 Local Development Plan Departures

Policy B1 Employment and business land

- 9.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

- 9.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

- 9.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

10. Recommendation

10.1 **GRANT Full Planning Permission subject to the following conditions:-**

01. In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended) this planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development is begun within that period.

Reason: Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

02. No works in connection with the development hereby approved shall commence unless a detailed site-specific construction method statement and related site plan has been submitted to and approved in writing by the planning authority. The construction method statement shall include details of measures to deal with the location of temporary settling lagoons, silt levels in discharges and temporary equipment stores. All construction works on the site shall be carried out in accordance with the approved construction method statement.

Reason: In the interests of protecting the natural environment.

03. That the surface water drainage shall be provided in accordance with the approved plans and drainage assessment (Fairhurst May 2022) and should not be brought into use unless the approved drainage

system has been implemented in this form. Following provision of the drainage system it shall thereafter be maintained by the developers or their successors in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and maintained, in the interests of the amenity of the area.

04. The building hereby approved shall not be erected unless an Energy Statement applicable to that building has been submitted to and approved in writing by the planning authority. The Energy Statement shall include the following items: a) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development; b) Calculations using the SAP or SBEM methods, which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with Policy C1 of the Aberdeenshire Local Development Plan 2017. The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

Reason: To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and Policy C1 of the Aberdeenshire Local Development Plan 2017.

05. The development hereby approved shall not be brought into use unless all soft and hard landscaping proposals (including post and wire fencing within boundary hedging) have been carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

06. The development hereby approved shall not be brought into use unless all roads, footpaths, vehicle parking and turning areas serving the development, have been provided and completed to the current Aberdeenshire Council road construction standards and in accordance with the approved details. Once provided, all roads, parking, footpaths and turning areas shall thereafter be permanently retained as such.

Reason: To ensure the provision of a means of access and turning space to an adequate standard in the interests of road safety.

07. The development hereby approved shall not be brought into unless a litter collection policy and plan for the development has been submitted

to and approved in writing by the planning authority. All the measures identified in the approved policy and plan shall be in place and fully operational before the premises are open to members of the public. Thereafter, the premises shall not operate other than in complete accordance with the approved litter collection policy and plan.

Reason: In the interests of the amenities of the surrounding area.

10.2 That the Committee agree the reason for departing from the Aberdeenshire Local Development Plan 2017

The proposed development involves a relatively modest area of employment land that has been subject to marketing for a period of time, and which cannot be accommodated in Westhill Town Centre. The restaurant and drive-thru will generate jobs and will be complementary to the existing mix of uses on the wider business park. On this occasion, it is considered acceptable to justify departing from Policy B1 Employment and business land.

The proposed development accords with the Scottish Planning Policy principles of sustainable development. This carries significant material weight lending itself to an approval. Item: 5A Page: 46 In assessing the proposed development there were no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal.

Alan Wood

Director of Environment and Infrastructure Services

Author of Report: Helen Atkinson (Senior Planner)

Report Date: 03/11/2022



Comments on the planning application APP/2022/1236 Gregg's Drive Through

We do support this application however we do have the following concerns

- that Westhill will be perceived as a fast food drive thru hub
- on the Environmental Health Report there is no requirement to produce a litter management plan.
- the existing McDonald and Starbuck on the site at Venture Way, Arnhall Business Park are described as drive throughs however they also attract a number of pedestrians and it is not uncommon to see young people crossing the busy dual carriageway in one go or walking down the narrow strip in the middle of it with fast flowing traffic on either side of it we would like to propose a safe pedestrian crossing installed either across the busy A944 or from Westhill Drive to the Tesco roundabout or across Endeavour Drive. WECC have previously commented on the need for a pedestrian crossing on the planning applications for both Starbucks and McDonalds at the same site.
- we are concerned about the signage for this development which includes a large totem sign of 5M

We are pleased to see that there were a number of EV charging points